

28 January 1980

MEMORANDUM FOR: See Distribution

STATINTL

FROM:

[Redacted]

Chief, Legislation Division/OLC

SUBJECT: FBI/DEA Proposals for Inclusion in
Justice/Intelligence Bills, FY 1981

REFERENCE: OLC 80-0180, 21 January 1980

1. Attached is a revised FBI legislative proposal related to moving expense benefits. Note that it is now cast in terms of employees participating in FBI foreign counterintelligence and counterterrorism programs, and is thus more suitable for inclusion in the Intelligence Authorization Bill. I would appreciate your views on how the FBI proposal compares to current Agency benefits, and on whether or not you would recommend that the Agency support the FBI proposal.

2. Also attached is a package of background material bearing on previous FBI/DEA attempts to remedy the alleged inequity dealt with in the FBI proposal.

3. Please let me know what you think of the FBI/DEA position as soon as possible, but in any case no later than COB 1 February 1980. FBI and DEA are interested in knowing whether the Agency reimburses "real estate costs" in connection with foreign to domestic and domestic to foreign transfers, and whether we have any weight limit problems. Please let me know the answers and give me your recommendation as to whether this information should be passed to FBI/DEA.

4. I would also appreciate your views as to whether the Agency should join FBI/DEA efforts to obtain a statutory exemption from the so-called "Fly American Act" (49 U.S.C. 1517) such as the exemption obtained by the Department of State in Section 706 of P.L. 95-426, the FY 1979 Foreign Relations Authorization Act (copy attached).

STATINTL

[Redacted]

Atts

Distribution:

- 1 - DD/Pers P&M [Redacted]
- 1 - D/SSA/DDA [Redacted]
- 1 - OGC [Redacted]
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92 STAT. 992

PUBLIC LAW 95-426—OCT. 7, 1978

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SEC. 702. (a) Section 7(a) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3007(a)), is amended by striking out "\$350,000" and inserting in lieu thereof "\$550,000".

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 703. (a) Section 6 of the Japan-United States Friendship Act (22 U.S.C. 2905) is amended—

- (1) by striking out "and" at the end of paragraph (9);
- (2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and
- (3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code."

(b) The amendments made by this section shall take effect on October 1, 1978.

Effective date.
22 USC 2905
note.

CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

Effective date.

SEC. 704. Effective October 1, 1978, there is authorized to be appropriated to the President \$60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

PROHIBITION ON AID OR REPARATIONS TO VIETNAM

SEC. 705. (a) None of the funds authorized to be appropriated in this Act may be used for the purpose of reparations, aid, or any other form of payment to the Socialist Republic of Vietnam.

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

Accounting of
MIA's.
22 USC 2151
note.

USE OF FOREIGN AIR CARRIERS

Transportation
funds.
49 USC 1518.

SEC. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communication Agency, the Agency for International Development (or any successor agency), and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

49 USC 1371

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

SEC. 707. (a) Subsection (a) of section 215 of the Immigration and Nationality Act (8 U.S.C. 1185) is amended by striking out "When the United States" and all that follows through "be unlawful" and insert-

- COPY -
U.S. Department of Justice

Drug Enforcement Administration

Washington, D.C. 20537

Office of the Administrator

11/28/79

Chuck,

In December 1977, Attorney General Bell wrote to Secretary Blumenthal seeking assistance in resolving a tax inequity involving DEA and FBI employees regarding tax treatment of moving expenses paid by the government.

In January 1978, Secretary Blumenthal responded that he had referred the matter to the Office of Tax Policy. We have heard nothing further and inasmuch as I feel that this is such an important matter to our employees, I want to keep the issue alive.

I appreciate your assistance.

P.B.B.

Peter

"Draft memo - attached"

P.B.B.



Honorable G. William Miller
Secretary
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

In December of 1977 Attorney General Bell wrote to Secretary Blumenthal regarding a problem of inequitable tax treatment of certain employees of the Federal Bureau of Investigation and the Drug Enforcement Administration. For your information, I am enclosing copies of the Attorney General's and Secretary's correspondence.

Secretary Blumenthal indicated that the matter was being referred to the Office of Tax Policy to study the adequacy of the \$3,000 limit. He welcomed any information we could provide for the study.

We have not had a further request for information nor an explanation of the type of information desired.

We will be most happy to provide any information we can in an effort to aid the adequacy study.

I am most anxious to assist in finding a resolution to this problem. It has been a continuing morale problem and increases in severity during these times of rising costs and inflation.

Sincerely

Benjamin R. Civiletti
Attorney General

Enclosures

cc: DOJ
AG, AAG/Admin.

cc: DEA

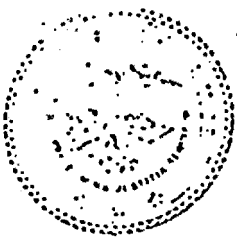
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11-14-79
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Office of the Attorney General

Washington, D. C. 20530

December 27, 1977

Honorable Michael W. Blumenthal
Secretary
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

It has come to my attention that an inequity exists concerning the tax treatment of certain employees of the Federal Bureau of Investigation and the Drug Enforcement Administration.

The Tax Reform Act of 1976 provides that any moving or storage expenses furnished in kind or by reimbursement to a member of the Armed Forces on active duty for a move pursuant to a military order and incident to a permanent change of station shall not be includible in gross income for federal income tax purposes.

FBI and DEA special agents and limited other personnel of those organizations are transferred for the benefit of the Government, are required to comply with transfer orders, and are in this respect analogous to military personnel. Also like the military services, the FBI and DEA manpower requirements dictate moves for these employees substantially more often than most other civilian employees. However, these employees are required to include the reimbursements of their moving or storage expenses as income for tax purposes and then are limited to \$3,000 in claiming deductions for the move, of which no more than \$1,500 may be for expenses of house hunting trips and temporary quarters. A sample of such FBI transfers indicated that 94 percent of those transferred exceeded the \$3,000 deduction limit, some by nearly \$5,000. This required the employees to pay taxes on expenses incurred in connection with official transfers and in addition usually placed the employees in a higher tax bracket.

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I believe that this tax treatment is unfair and should be remedied at the earliest practicable time. These employees, who are subject to involuntary and repeated moves by order of their organizations, should receive the same consideration as their military service counterparts, i.e. not be required to report reimbursements for these moves as income for tax purposes.

I would appreciate your assistance in this matter. Assistant Attorney General Pat Wald and her staff are available to work with your staff on the details of perfecting the necessary change in the law.

Sincerely,

Griffin B. Bell

Griffin B. Bell
Attorney General



THE SECRETARY OF THE TREASURY

Approved For Release 2002/05/09 : CIA-RDP92-00455R000200070006-1

January 30, 1978

JAN 31 11 19 AM '78

Dear Griffin:

Thank you for your December 27 letter regarding the tax treatment of reimbursements for moving expenses incurred by certain employees of the Federal Bureau of Investigation and the Drug Enforcement Administration.

You note that FBI and DEA agents, who are subject to frequent involuntary moves, typically incur reimbursable expenses, subject to tax as income, that exceed the \$3,000 limit on moving expense deductions.

I agree with you that such a pattern would be inequitable. If it is true for FBI and DEA agents, I suspect it is also true for other federal and private employees subject to frequent involuntary transfers. Accordingly, I have asked the Office of Tax Policy to study the adequacy of the \$3,000 limit. Any information you could provide for this study would be most welcome.

You pointed out in your letter that the 1976 Tax Reform Act exempted active military personnel from having to include moving expense reimbursements as income for tax purposes. While a similar exemption for FBI and DEA agents would certainly solve their problem, I don't think we should proceed in that manner. First, extending the exemption piecemeal would not meet the general problem - for all employees - of the adequacy of the ceiling for moving expense deductions. Second, the exemption for military personnel was created solely because of administrative problems in valuing the moving services provided by the military. Unless this same valuation problem arises for FBI and DEA personnel, the exemption route would appear to be inappropriate.

JAN 31 1978

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-2-

Thank you for alerting me to this problem. Please don't hesitate to stay in touch as we attempt to work it out.

Sincerely,



W. Michael Blumenthal

The Honorable
Griffin B. Bell
Attorney General
Department of Justice
Washington, D. C. 20530

Office of the Attorney General

Washington, D.C.

See FBI
11/21/77
Cal- 2/1/78

February 7, 1978

MEMORANDUM FOR

Honorable W. Michael Blumenthal
The Secretary of the Treasury

Thank you for your letter of January 30, 1978, regarding the problem of tax treatment of reimbursements for moving expenses incurred by employees of the FBI and DEA.

We will keep in touch with you about this matter.

Griffin B. Bell
Attorney General

GBB/br

DATE:

February 7, 1978

memorandum

REPLY TO
ATTN OF:

Griffin B. Bell
Attorney General

SUBJECT:

TO:

Peter Bensinger
Administrator, DEA

I enclose a letter dated January 30, 1978, from the Secretary of the Treasury with respect to the problem of moving expenses for FBI and DEA Agents. Kindly supply any information to the Secretary which you think will be helpful from time to time.

Enclosure

GBB/br

memorandum

DATE:

February 7, 1978

REPLY TO
ATTN OF:

Griffin B. Bell
Attorney General

SUBJECT:

TO:

Clarence M. Kelley
Director, FBI

I enclose a letter dated January 30, 1978, from the Secretary of the Treasury with respect to the problem of moving expenses for FBI and DEA Agents. Kindly supply any information to the Secretary which you think will be helpful from time to time.

Enclosure

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

U.S. Government Printing Office: 1977-241-530, 3474

OPTIONAL FORM NO. 10
(REV. 7-77)
GSA FPMR (41 CFR) 101-11
5010-112

Approved For Release 2002/05/09 : CIA-RDP92-00455R000200070006-1

Mr. Kevin D. Rooney
Assistant Attorney General
for Administration
Peter H. Bensinger
Administrator
Drug Enforcement Administration

Legislative Proposal to Authorize Specified Benefits for FBI Personnel

This request relates to the referral of information on the above subject by the Office of Management and Finance (OMF). We request that DEA be included in the legislative proposal which is being considered by the Office of Legislative Affairs (OLA).

Like the FBI, DEA has a structured rotation policy for its Special Agents. This policy covers the transfer of Agents to both domestic and overseas posts of duty. Additionally, the DEA transfer policy includes Chemists, Compliance Investigators, Intelligence Analysts, and support personnel. For complete equity, we believe that the proposed legislation should also cover these DEA personnel as well as Agents.

We request that DEA be included in the Department proposal to Congress that Chapter 57 of Title 5, United States Code, and related statutes, be amended to: raise the net weight of household goods and personal effects which a transferred employee may transport at Government expense; provide that reimbursements to a transferred employee not be considered income for tax purposes; permit personnel, who have been subject to permanent change of duty station in the interest of the Government, to be reimbursed for major moving expenses from their official duty stations at the time of retirement to other locations; obtain assistance for employees in connection with the sale of residences, settlement of unexpired leases and purchase of residences, in certain circumstances.

Satisfying this Administration's nationwide and overseas manpower requirements necessitates transferring Special Agents, Chemists, Compliance Investigators, Intelligence Analysts and administrative personnel in the interest of the Government. These DEA personnel are required to move more often than most civilian employees of the Government and individuals employed in the private sector. Agents, Chemists, Compliance Investigators, and Intelligence Analysts transferred in the interest of the Government, are required to comply with transfer orders. In FY 1976 and the Transition Quarter, DEA transferred 579 employees while in FY 1977 the total was 406. The proposed legislation will minimize the financial burden and hardships imposed on DEA personnel.

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A review of official records shows that sixteen percent (16%) of those transferred exceeded the 11,000 pound weight limit on household goods. In addition, over a fourth were within 1,500 pounds of exceeding that limit. Noteworthy is the fact that in recent years the weight of household goods for employees transferred has steadily increased. In instances where the weight limit was exceeded, the out-of-pocket expense to a transferred employee has been as much as \$1,200.

We seek for our employees a similar exemption granted military personnel by the Tax Reform Act of 1976. The tax inequities to military personnel which evidently prompted Congressional enactment apply to DEA personnel as well.

A sample of transfers indicates that seventy-five percent (75%) of those transferred exceeded the \$3,000 income tax deduction limit. Some of those transferred exceeded that limit by as much as \$5,600. Not only did employees have to pay taxes on expenses incurred in connection with official transfers, but the employees were placed in higher income tax brackets.

Based on transfers accomplished in calendar year 1977, we estimate the cost of these exemptions to be \$90,000 in tax revenue.

We also request that you seek legislation to permit DEA personnel who have been subject to permanent change of duty station transfer in the interest of the Government to be reimbursed for major moving expenses from their official duty stations at the time of retirement to other locations. On occasion, personnel in management positions are transferred late in their careers to major metropolitan areas because of the expertise and knowledge they have developed during their careers. The result is that many reach retirement age in a community not particularly favorable to them or their families. The situation in which these personnel find themselves is in marked contrast to most other Government employees who remain close to their homes throughout their years of Government service. Military personnel, following at least eight years of continuing active duty, are entitled to the shipment of household goods from their last or any previous permanent duty station to a location selected upon retirement.

We also support the proposed legislation to assist with the sale of residences. One of the most important problems faced by DEA employees under transfer is the sale of their houses. Frequently an employee must report to his new office of assignment and leave his wife and family behind to handle the sale of the house. Depending upon circumstances, this forced separation may last for weeks or months. In some instances employees have been unable to sell their houses for over a year. We request the Department propose to Congress legislation which would provide that in those cases in which an employee is unable to sell his house within a reasonable period of time the Government will assume financial responsibility for the house. This is done for military personnel who are required to vacate houses because of the closing of a

post in a depressed area, and is a fairly common practice among the more progressive, private employers.

In addition to the foregoing provisions and in line with requested legislation (Para. 3b(2)) submitted to the Department on September 26, 1977, (copy attached), DEA supports legislation covering the expenses in the sale of a residence or the settlement of an unexpired lease of an employee transferred from a domestic post to an overseas post, and the expenses of the purchase of a residence by an employee transferred from an overseas post to a domestic post.

Attachment

cc:

A

AD _____ Date _____ Time _____

CC _____ Date _____ Time _____

MA *[Signature]* Date *1/19/78* Time *1414*

MCT *[Signature]* Date *1/19/78* Time *1945*

MCTA *[Signature]* Date *1-6-78* Time *4:35*

MCTB *[Signature]* Date *1/9/78* Time *1245*

MCTB/DValway/b1/31422/12-21-77

Retyped: 1/6/78

Chron.

File # *360-01* Fiscal Year *78*

File Title: *(Legislation Files) & Legislative Comments / Proposals*